SUPREME COURT, U. S.

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No. 1013

IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

BOBBY H. WORLEY and RICHARD R. ACKERSON,
Petitioners,

vs.

PEOPLE OF THE STATE OF ILLINOIS,
Respondent.

PETITION FOR REHEARING UPON DENIAL OF PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

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To: *The Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:*

Petitioners, Bobby H. Worley and Richard R. Ackerson, respectfully petition the court for rehearing and pray that upon rehearing and review that a writ of certiorari be issued to review the decision of the Supreme Court of Illinois affirming the order of the Circuit Court of Ogle County, Illinois.

Reasons for the allowance of the Petition for Rehearing.

Because the Constitution favors a trial on factual issues in criminal cases, rehearing should be granted herein to review a case in which pleas of guilty were entered which pleas were induced by confessions taken by constitutionally impermissible means. Before the petitioners were sentenced and before there was any indication of what their sentences would be, they moved to vacate their pleas of guilty (A. 2, 10).

Evidentiary hearings were held showing that confessions were taken from them by unconstitutional means. This has never been denied by the State.

The Supreme Court of Illinois only stated the defendants did not show that the convictions were the result of the coerced confessions. *People* v. *Worley, et al.,* ..... Ill. 2d ....., 221 N.E. 2d 267 at 269. Yet the evidence was unrebutted that the petitioners were held in custody and would not be released until they confessed (A. 5, 6).

This court held that the court's discretion should be granted to permit one accused to substitute a plea of not guilty for one of trial, ". . . if for any reason the granting of the privilege seems fair and just." *Kercheval* v. *United States,* 274 U.S. 220, 224. Leave to withdraw pleas of guilty before sentence "should be freely allowed." *Poole* v. *United States,* 250 F. 2d 396, 400; *Gearhart* v. *United States,* 272 F. 2d 499, 502.

We respectfully submit the ends of justice will better be served by permitting a jury trial on factual issues where there is denial of guilt and where petitioners' motions to

withdraw the pleas were made before there was any indication of sentence imposition. *Kadwell* v. *United States*, 315 F. 2d 667 at 670.

CONCLUSION.

For the foregoing reasons we respectfully pray that rehearing be granted and that the petition be allowed.

Respectfully submitted,

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